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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,651	12/22/2000	Glenn D. Kirwin	99-1013	1536
63710 7590 10/31/2008 DEAN P. ALDERUCCI CANTOR FITZGERALD, L.P. 110 EAST 59TH STREET (6TH FLOOR) NEW YORK, NY 10022				
EXAMINER TINKLER, MURIEL S				
ART UNIT 3691		PAPER NUMBER		
MAIL DATE 10/31/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/745,651

Applicant(s)

KIRWIN ET AL.

Examiner

MURIEL TINKLER

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8-10, 17, 19, 24, 29, 30, 37-40, 42-46, 49, 50 and 63-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-10, 17, 19, 24, 29, 30, 37-40, 42-46, 49, 50 and 63-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Page No(s)/Mail Date 7/2/2008.

DETAILED ACTION

This application has been reviewed. Claims 1-4, 6, 8-10, 17, 19, 24, 29, 30, 37-40, 42-46, 49, 50 and 63-75 the rejection(s) are as follows.

Response to Arguments

1. Applicant's arguments with respect to claims 1-4, 6, 8-10, 17, 19, 24, 29, 30, 37-40, 42-46, 49, 50 and 63-75 have been considered but are moot in view of the new ground(s) of rejection. The Applicant has amended all independent claims.

Response to Amendment

2. The amendments have been examined against the specification and have been accepted for review.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-4, 6, 8-10, 17, 19, 24, 29, 30, 37-40, 42-46, 49, 50 and 63-75 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is not patent eligible subject matter, because independent claims 1, 19, 37 and 68 of the claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception (e.g.,

because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result). In this case, the claimed invention uses method steps without any associated hardware. This type of invention is considered to be software (i.e. a computer program) and computer programs are not considered patentable subject matter.

5. The dependent claims 2-4, 6, 8-10, 17, 24, 29, 30, 38-40, 42-46, 49, 50, 63-67 and 69-75 do not overcome this deficiency and there therefore also rejected.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-4, 6, 8-10, 17, 19, 24, 29, 30 and 63-75 are rejected under 35 U.S.C. 102(a) as being anticipated by Tuck (US 6,115,698), hereafter referred to as Tuck.

8. Tuck discloses the information in claims 1-3, 19, 24, 64, 68, 69-71 and 73:

a. receiving a trading command to trade in at least one item via a first interface, the first interface displaying at least one of a bid variable and an offer variable associated with trading the item, each of the variables selectable for submitting the trading command (figure 21);

- b. presenting a second interface in response to receiving the trading command, the second interface comprising at least one button for confirming the trading command being submitted (figure 22) and column 10 (lines 28-52) – see also, the 'Edit Primary Contract Display' which appears when the Edit Primary Contracts button of the User Maintenance screen is pressed in figure 10 and column 6 (lines 13-34), and, Figure 22 (second interface) is dependent on a selection from figure 21 (first interface). This can be shown in column 10 (lines 34-36), "Upon pressing the Sell button, the Sell Confirmation dialogue box 182, shown in FIG. 22, appears.";
 - c. submitting the trade command (i.e. bid command) for execution in response to a selection of the at least one button. See the rejection of claim 37 below;
 - d. a software generated screen displayed after a System Administrator in figure 8 and column 5 (lines 26-38);
 - e. participants have the ability to display both buy and sell offers, in the Abstract;
 - f. the use of price and size fields in the first and second interface in figure 21, figure 22 and column 10 (lines 28-39),
9. Regarding claims 4, 30 and 63, Tuck discloses a first interface displays a bid variable and the trading command comprises a bid command submitted by selecting the bid price in figure 17 (element 162).

10. Regarding claims 6, 65, 72 and 74, Tuck discloses a first interface displays an offer variable and the trading command comprises an offer command submitted by selecting the offer price in figure 17 (see 'Buy' tab).

11. Regarding claims 8 and 29, Tuck discloses that at least one of the bid variable and the offer variable are displayed in a market cell in figure 21.

12. Regarding claim 9, Tuck discloses a first interface displaying a bid variable and the trading command comprises a sell command submitted by selecting the bid size. See the rejection of claims 4 and 8 above.

13. Regarding claim 10, Tuck discloses discusses the method of claim 2, wherein the first interface displays an offer variable and the trading command comprises a buy command submitted by selecting the offer size in figure 21 (see 'Buy Market' tab).

14. Regarding claims 17, Tuck discloses, a first interface comprises a bid variable and an offer variable, the trade command comprises at least one of a bid command and an offer command, and the second interface comprises a bid button for confirming the bid command and an offer button for confirming the offer command, and wherein the pointing device pointer is repositioned over the bid button in response to selection of the bid variable and over the offer button in response to selection of the offer variable. See

the rejection of claims 6 and 8. Tuck discloses the bid and offer portion of this interface in figure 19.

15. Claim 37 discusses a method comprising: receiving a trading command to trade in at least one item via a first interface, the first interface displaying at least one trading variable associated with trading the item; presenting a second interface in response to receiving the trading command, the second interface comprising at least one button for confirming the trading command being submitted and a data entry field; automatically repositioning a pointing device pointer over the at least one button in the second interface; posting the at least one trading variable from the first interface in the data entry field with a selection of the at least one button once; and submitting the trade command for execution in response to selection of the at least one button again.

Regarding claim 66, see the rejection(s) of claims 4 and 17 above.

Regarding claim 67, see the rejection(s) of claim 6 and 17 above.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

18. Claims 37, 38, 40, 42-45 and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuck at applied to claim 1 above and in further view of Raykhman (US 7,171,386), hereafter referred to as Raykhman.

19. Regarding claim 37, see the rejection of claim 1 above. Tuck does not disclose posting data from the first interface in response to a selection of the button in the second interface once and submitting the trade command for execution in response to a selection of the button again. Raykhman teaches this in figure 4 (element 52) and column 14 (lines 30-36). Particularly, Raykhman discloses the use of buttons (element 52) that allow the user to use the best bid as well as submit a bid or offer. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Tuck by allowing the user to obtain the 'best bid' by clicking a button because it saves the user time and provides up-to-the-minute accuracy when making a counter offer against the current best bid.

20. Claim 38 discusses the method of claim 37, wherein the trading command comprises a bid command, the at least one button comprises a bid button for confirming the bid command, and the at least one trading variable comprises a bid price, the bid price displayed in the first interface posted in the data entry field with the selection of the bid button at least once. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 2.

21. Claim 40 discusses the method of claim 37, wherein the trading command comprises an offer command, the at least one button comprises a--big an offer button for confirming the offer command, and the at least one trading variable comprises an offer price, the offer price displayed in the first interface posted in the data entry field with the selection of the offer button. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 38, 4, 6, and 8.

22. Claim 42 discusses the method of claim 37, wherein the at least one trading variable is displayed in a market cell. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 38, 4, 6, and 8.

23. Claim 43 discusses the method of claim 37, wherein the at least one trading variable is displayed in a spreadsheet. The applicant discloses a market cell as data window. Claim 37 has been rejected based on the discussion(s) above. See the rejection of claim 8.

24. Claim 44 discusses the method of claim 37, wherein the at least one trading variable is displayed in a data window. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 10 and 11.

25. Claim 45 discusses the method of claim 37, wherein the at least one trading variable is displayed in an entry window. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 10 and 11.

26. Claim 49 discusses the method of claim 37, wherein the trading command comprises an offer command, the at least one button comprises an offer button for confirming the offer command, and the pointing device pointer is repositioned over the offer button. Claim 37 has been rejected based on the discussion(s) above. See also the rejection of claims 13-15.

27. Claim 50 discusses the method of claim 37, wherein the trading command comprises a bid command, the at least one button comprises a bid button for confirming the bid command, and the pointing device pointer is repositioned over the bid button. Claim 37 has been rejected based on the discussion(s) above. See the rejection of claim 17.

28. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuck and Raykhman as applied to claim 37 above and in further view of Bates et al. (US 6,809,741), hereafter referred to as Bates.

29. Regarding claim 39: Claim 37 has been rejected based on the discussion(s) above. Tuck does not specifically changing color fields when a pointer passes over a variable. Bates discloses this limitation at Col. 19, lines 27-36. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Minton with the coloring of trading information of Bates because draw a trader's attention to the field to assure correctness.

30. Claim 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuck and Robertson et al. in view of Raykhman as applied to claim(s) 1, 19, and 30 above and in further view of Harrington et al. (US 6,616,099), hereafter referred to as Harrington.

31. Regarding claim 46, see the rejection(s) of claims 37 above. Also, Harrington discloses the use of web pages in column 6 (lines 37-65 and figure 11).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURIEL TINKLER whose telephone number is

(571)272-7976. The examiner can normally be reached on Monday through Friday from 6:30 AM until 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. T./
Examiner, Art Unit 3691

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691